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Committee of Experts on International Cooperation in Tax Matters
Fourteenth session
New York, 3-6 April 2017

Summary of expected modifications to the United Nations Model Double Taxation Convention between Developed and Developing Countries and commentaries for the 2017 update: articles 1, 5 and 8, and one general change

Note by the Secretariat

The annexed table contains a summary of issues discussed by the Committee of Experts on International Cooperation in Tax Matters with respect to modifications to articles 1, 5 and 8 of the United Nations Model Double Taxation Convention between Developed and Developing Countries. The table provides information about the work that has already been done and the work that is to be accomplished by the end of June 2017, when the membership of the Committee will change. The column entitled "Status at 14th Session of the Committee" is therefore intended to guide discussion and decision-making during the fourteenth session of the Committee.

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Annex

Summary of expected modifications to the United Nations Model Double Taxation Convention between Developed and Developing Countries and commentaries for the 2017 update: articles 1, 5 and 8, and one general change*

Topic	*9th Session of the Committee*	*10th Session of the Committee*	*11th Session of the Committee*	*12th Session of the Committee*	*13th Session of the Committee*	*Status at 14th Session of the Committee*
Art.1 **1. Hybrid Entities** **(Originally under Art.4)** 2. Base Erosion & Profit Shifting	**1. Hybrid Entities** **(Originally under Art.4)** – Mr. Louie presented E/C.18/2013/CRP.1 – He offered to present a more detailed paper containing a proposal for modification to the UN Model and commentary on Art.4 (and also make reference to other affected articles) http://www.un.org/esa/ffd/wp-content/uploads/2014/09/9STM_CRP1_HybridEntities.pdf **2. Base Erosion & Profit Shifting** Not included in the Agenda	**1. Hybrid Entities** **(Originally under Art.4)** – Mr. Louie presented a paper (E/C.18/2014/CRP.14) containing examples and proposed modifications to Art.1 and its commentary – He was asked to prepare an updated version of his paper to be discussed at 11th session www.un.org/esa/ffd/events/tenth-sessiontax.html **2. Base Erosion & Profit Shifting** Not included in the Agenda	**1. Hybrid Entities** **(Originally under Art.4)** – Mr. Louie presented paper E/C.18/2015/3 – Mr. Louie offered to revise the proposed wording of the commentary on Art.1 before next meeting – The Committee agreed http://www.un.org/ga/search/view_doc.asp?symbol=E/C.18/2015/3 **2. Base Erosion & Profit Shifting** Not included in the Agenda	**1. Hybrid Entities** **(Originally under Art.4)** – CRP.7 EC18/2016 finalized – Language in Annex I of the paper to be added to the Commentary to Article 1 of the UN Model **2. Base Erosion & Profit Shifting** Not included in the Agenda	**1. Hybrid Entities** **(Originally under Art.4)** Hybrid entity issue finalized as per wording agreed at 12th session **2. Base Erosion & Profit Shifting** Possible treaty revision of article 1 along the lines of recent OECD changes. Issue of whether article 1 is the right place for some BEPS related changes discussed. Possible change raised from "Persons Covered' to "Scope" or "General Scope"	**1. Hybrid Entities** **(Originally under Art.4)** Already agreed: Hybrid Entity Issue finalized as per wording agreed at 12th session **2. Base Erosion & Profit Shifting** – For decision: Issue of whether article 1 is the right place for some BEPS related changes discussed. Possible change raised from "Persons Covered' to "Scope" or "General Scope"

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Topic	*9th Session of the Committee*	*10th Session of the Committee*	*11th Session of the Committee*	*12th Session of the Committee*	*13th Session of the Committee*	*Status at 14th Session of the Committee*
Art.5 **1. Meaning of "connected projects"** **2. Base Erosion & Profit Shifting**	**1. Meaning of "connected projects"** – Ms. Devillet presented updated paper E/C.18/2013/CRP.2 *"the Committee agreed that the traditional interpretation of the current provision of Art.5(3) (b) of the Model requires physical presence of individuals, being an employee or personnel of the enterprise furnishing services, in the source State in order to constitute a PE in that State.* – *However, some Committee members recognized that the development of the digital economy may create challenges for the application of that provision and that this should be*	**1. Meaning of "connected projects"** – Mr. Dawson presented the paper written by Devillet E/C.18/2014/CRP.11 on: (a) the meaning of the term "the same or a connected project" in article 5 (3) (b) of the Model Convention; and (b) the requirement of physical presence for a permanent establishment to exist. – The Committee agreed to: 1. Include a new para. (para. 12.1) to the commentary on Art.5(3) providing that the traditional interpretation of subpar. (b) would require the physical presence of individuals in the source State, in the form of an employee or	**1. Meaning of "connected projects"** – In addition to 10th session consensus: 1. Recognized the minority view in the Commentary "A minority view was that the requirement of physical presence is no longer relevant for article 5 (3) (b), as the business cycle may be completed without that physical presence. While some of those concerns may be addressed by adopting the article on fees for technical services, such an article does not cover all services covered under article 5 (3) (b)." 2. Decided to include a new para 12.2	**1. Meaning of "connected projects"** Not included in the Agenda **2. Base Erosion & Profit Shifting** A revised commentary to Art 5(3) to deal with contract splitting was agreed (with some additions to be added to deal with some LOB cases). It was agreed to align paragraph 5(7) with the OECD wording, in particular removing the arm's length dealing provision, which made it easier to qualify as an independent agent under the UN as compared with the OECD model. Two options were proposed for an amended paragraph 5. Option 1 was based on the Multilateral	**1. Meaning of "connected projects"** Not included in the Agenda **2. Base Erosion & Profit Shifting** – Possible treaty revision of article 5, paragraphs 3, 4, 5 and 7 based on the OECD changes. – There was consideration of the issue whether to remove the words "(for the same or a connected project)" from subparagraph 5(3) (b) of the Article. The matter was voted on and the majority preferred retaining the wording but with an alternative in the Commentary that omitted the wording, with a balanced commentary on the perceived pros	**1. Meaning of "connected projects"** – Committee Members should approve new language to be included in the new version of the UN Model, as agreed in the 11th Session of the Committee. **Base Erosion & Profit Shifting** – For decision: final wording of BEPS related changes, including alternative wording on same or connected projects and 11th session changes for those retaining the concept.

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	reflected in the commentary. – *Thus, further efforts should be taken to address that issue in the commentary through an alternative provision or alternative provisions."* – Ms. Devillet was asked to develop wording that encapsulated that policy for the next session **2. Base Erosion & Profit Shifting** Not included in the Agenda	personnel of the enterprise furnishing services, in order for a PE to exist in that State. Some Committee Members registered a minority dissenting opinion on this issue 2. Included a new para. 12.2 clarifying that only the profits attributable to the services performed within the source State could be taxable in that State 3. Asked Mr. Dawson to redraft and simplify some other paragraphs proposed to be added to the commentary on Art.5(3), including some examples, with a view to clarifying that reference should be made to the perspective of both the service provider and the customer in determining what	clarifying that only the profits attributable to the services performed within the source State could be taxable in that State 3. Proposed revisions to the commentary on Art.5(3) 4. Proposed to include some examples to clarify that reference should be made to the perspectives of both the service provider and the customer when determining what constitutes "the same or a connected project" 5. The commentary would include some relevant factors for consideration, such as whether the projects are	Instrument wording. Option 2 did not refer to "material modification[s]" A majority preferred Option 1. Many Members noted the importance of the commentary in clarifying what "material modification" means. It was decided to await a commentary before a final decision.	and cons of the two options. It was noted that how the commentary explained the meaning of the formulation was vital, as some considered the former wording clearer and some considered the newer wording clearer.	

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		constitutes "the same or connected project"	provided at the same location, whether they would usually be provided under a single contract, whether the services are provided consecutively, whether the projects resulted from the same bidding or negotiation process, whether each project is capable of separate delivery or acceptance and whether a reasonable person would not have entered into the contract as a separate project			
		4. Some of the source State concerns arising from the digital economy and changes in company practices might be addressed by adopting the forthcoming article on fees for technical services and that the relationship between the provisions of Art.5 dealing with services and those of the article on fees for technical services should be clarified in the commentary.	6. In the proposed para. 12.5, the reference to "associated companies" would be changed to "closely related companies" to			
		http://www.un.org/esa/ffd/wp-content/uploads/2014/10/10STM_CRP11_Art5Project.pdf				
		2. Base Erosion & Profit Shifting				
		Not included in the Agenda				

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			distinguish it from the concept of "associated enterprises" contained in art.9 7. The Committee agreed to use the same definition used in the OECD/G20 BEPS Action 7. **2. Base Erosion & Profit Shifting** Not included in the Agenda			
Art.8 Shipping, inland waterway transport and air transport: **1. Meaning and coverage of the term "auxiliary activities"** **2. Cruise Shipping activities**	**1. Meaning and coverage of the term "auxiliary activities"** Not included in the agenda. **2. Cruise Shipping activities** – Secretariat to update the paper (E/C.18/2013/CRP.4) for 10th session – Discussion over the application of article 8 to cruise	**1. Meaning and coverage of the term "auxiliary activities"** – The Committee considered whether the UN commentary should adopt the same terminology as the OECD (changing "auxiliary activities" to "ancillary activities," to avoid confusion with the term "preparatory and auxiliary	**1. Meaning and coverage of the term "auxiliary activities"** – The issue subjected to discussion here was whether ancillary and auxiliary activities were similar terms. The subcommittee was of the opinion that the terms were equivalent and	**1. Meaning and coverage of the term "auxiliary activities"** Not included in the agenda. **2. Cruise Shipping activities** – The Members were reminded that at the 12th session it was agreed that the potential application of Article 8 to cruise shipping would be	**1. Meaning and coverage of the term "auxiliary activities"** Not included in the agenda. **2. Cruise Shipping activities** Extensive discussions on what constitutes a stop for international transport services. Some members were of the opinion that a fuel stop is not long enough to constitute	**1. Meaning and coverage of the term "auxiliary activities"** Already Agreed: – Model to be changed to substitute the term "auxiliary activities" by "ancillary activities, following the OECD Model, and as per 11th and 12 session outcomes.

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	shipping, set to be an agenda item for the 10th session of the Committee – Mr. Martino offered to provide a paper on the subject	activities") (E/C.18/2014/CRP.1) – Committee decided to create a new subcommittee on possible updates to the commentary on Art.8 of the Model, to cover in particular the concept of "auxiliary activities and the issue of the application of Art.8 to cruise shipping" **2. Cruise Shipping activities** Not included in the agenda.	favored using the term "ancillary activities" as in the OECD model. – Discussion ensued on account of the fact that some members considered "ancillary" to be broader in operation than the term "auxiliary", to the extent that it could create a larger "carve-out" for profits from taxation under the normal principles of articles 5 and 7 and could lead to unjustified loss of revenue for States in which such profit-making activities occur – the Committee requested that the Subcommittee redraft the	acknowledged in the Commentary by including an example appertaining to cruise shipping.	a stop for international traffic purposes, whereas a stop to pick up passengers would. Agreement was reached in principle to only treat as a stop those cases where there was a destination in itself for passengers, not merely a fueling or emergency stop. Exact wording to be cleared at 14th session. The treatment of profits emissions permits, containers and internal traffic was also discussed. Some members were of the opinion that some of these items are not to be included within the scope of article 8. A minority view is to be registered with respect to these subjects. It will also be reflected that some consider internal transport is covered by the current wording of	– Commentary on Article 8 to be modified, providing extensive examples of when the article is applicable. – Minority view regarding the use of the term "ancillary activities" to be registered in the commentary. **2. Cruise Shipping activities** – Amend commentary to clarify that international cruising activities are included within the scope of article 8 and are therefore regarded as international transport services. – Amend commentary to reflect minority views on the

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			proposed commentary on article 8, emphasizing the various and clear examples with regard to when the article should be applicable. – The Committee members opted to follow the OECD Model ("ancillary"), with due note of the minority opinion. **2. Cruise shipping activities** – The Committee accepted in principle the recommendations made by the Subcommittee on the inclusion of cruise shipping activities within the coverage of article 8 and requested it to propose updates to the		the Article, but as a policy choice prefer an option excluding it from coverage.	treatment of emissions permits, containers and internal traffic (wording to be settled). – Committee to propose language to reflect discussion on what constituted a step for international transport purposes. (wording to be settled)

Topic	9th Session of the Committee	10th Session of the Committee	11th Session of the Committee	12th Session of the Committee	13th Session of the Committee	Status at 14th Session of the Committee
			commentary accordingly. A minority view, that cruise activities were not within the scope of article 8, would also be noted.			
"Such countries are free to include a provision" and similar wording — relevance to the purely guidance role of the UN Model (See 13th session note)	Not on agenda	Not on agenda	Not on agenda	Not on agenda	It was noted more broadly by the Secretariat, following the comment of a Member, that the common usage in the Model that States not wishing to follow a proposed text were "free" to adopt an alternative wording, was technically correct, but as the same applied whether or not the Model offered alternative wording (with the model having no binding force) it could lead to misunderstandings — "may prefer to" or "may wish to" or similar should therefore replace the term "are free to" in the next version of the Model, wherever	Purely editorial, for secretariat report at most.

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					used. This should not affect direct quotes from the OECD commentary, where that formulation may have more relevance because of a relevant OECD recommendation.	

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Summary of expected modifications to the United Nations Model Double Taxation Convention between Developed and Developing Countries and commentaries for the 2017 update: articles 9, 12 and 13

Note by the Secretariat

The annexed table contains a summary of issues discussed by the Committee of Experts on International Cooperation in Tax Matters with respect to modifications to articles 9, 12 and 13 of the United Nations Model Double Taxation Convention between Developed and Developing Countries. The table provides information about the work that has already been done and the work that is to be accomplished by the end of June 2017, when the membership of the Committee will change. The column entitled "Status at 14th Session of the Committee" is therefore intended to guide discussion and decision-making during the fourteenth session of the Committee.

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Summary of expected modifications to the United Nations Model Double Taxation Convention between Developed and Developing Countries and commentaries for the 2017 update: articles 1, 5 and 8, and one general change*

Topic	*9th Session of the Committee*	*10th Session of the Committee*	*11th Session of the Committee*	*12th Session of the Committee*	*13th Session of the Committee*	*Status at 14th Session of the Committee*
Art. 9 Associated enterprises	The Committee mandated the Subcommittee on Article 9 (Associated Enterprises): Transfer Pricing to: (a) present a draft revised commentary on Article 9 for discussion and decision at the tenth session of the Committee, in 2014; and (b) to work on the updating of the Manual, with reports on its progress to be made at each session and with the Subcommittee's final updated draft manual to be provided for discussion and adoption at the twelfth session, in 2016.	– The Committee discussed the revision of the commentary on Art. 9 (E/C.18/2014/4) – The Committee, at the 10th Session, noted the importance of referring to the Transfer Pricing Manual in the commentary, although they considered it best to replace the words "seeks broad consistency" in the last sentence of the proposed paragraph 4 of the commentary with "seeks consistency" to be consistent with the formulation in the foreword of the Manual. – It was agreed that the proposal of one member to add a sentence to the commentary on Article 9 (2) on alternative methods and another proposal to provide alternative wording in the commentary on Article 9 (3), for countries in which gross negligence and willful default were not liable to penalty, would be added to the catalogue of issues for future updates.	– Focus shifted to update of the United Nations Practical Manual on Transfer Pricing for Developing Countries.	The 12th Session Approved the new version of the United Nations Practical Manual on Transfer Pricing for Developing Countries.	Update on editorial process for the Manual.	Already decided (pursuant to 10th session decisions): – Additional sentence to the commentary to Art.9 (2) on alternative methods and alternative wording in the commentary on Art. 9 (3), for countries in which gross negligence and willful default were not liable to penalty. – Revised Commentary to Art. 9 in order to refer to the Transfer Pricing Manual.

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Art. 12 Royalties:						
1. General considerations incl. equipment-related issues	**1. General considerations incl. equipment-related issues** – The Committee requested the Secretariat to draft a paper covering specific relevant aspects, including equipment-related issues as well as issues that could have an impact on technical services provisions.	**1. General considerations, incl. equipment-related issues** – The Secretariat presented a paper at the tenth session of the Committee in 2014 (E/C.18/2014/3), addressing in particular the differences between the UN and OECD Model Conventions on Royalties. – The Committee asked the Secretariat to prepare a note with proposed text aimed at clarifying the meaning of the term "industrial, commercial or scientific equipment" in the commentary on Art.12. The paper should also deal with the issue of coverage or otherwise of software-related payments under the article.	**1. General considerations, incl. equipment-related issues** At the eleventh session of the Committee in 2015, the Secretariat's note (E/C.18/2015/CRP.7), as well as a paper prepared and presented by Mr. Scott Wilkie at the Secretariat's request (E/C.18/2015/CRP.6), were taken up by the Committee and the Subcommittee on Royalties (Subcommittee) was formed to further investigate those issues.	**1. General considerations, incl. equipment-related issues** The Committee discussed possible amendments to the commentary on Article 12 in relation to: issues in relation with the characterization of consideration derived from leasing of rent of Industrial, commercial or scientific equipment; Software-related payments.	**1. General considerations, incl. equipment-related issues** No discussion of Industrial, commercial or scientific equipment and software-related payments, pending Subcommittee on royalties meeting in Feb 2017.	**1. General considerations, incl. equipment-related issues** Discussion on Industrial, commercial or scientific equipment and software related payments, depending on Subcommittee on royalties meeting in Feb 2017.

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2. Subcommittee on Services	**2. Subcommittee on Services** – The Committee established a new Subcommittee to be coordinated by Ms. Kana and mandated to: (a) broadly address the taxation of services; and (b) address the particular issue of taxation of fees for technical services by presenting wording, including various options, for the text of the article on technical services, and the commentary, at the tenth session.	**2. Subcommittee on Services** – It was agreed that there should only be one article in the Model Convention; however, a new alternative version of the text of the article would be drafted with a view to its inclusion in the commentary. Those Subcommittee members who preferred an alternative option with less broadly expressed coverage were accordingly asked to put forward such text. It was agreed that the commentary should address the pros and cons of both the new article and the alternative options fairly, and in particular those that felt that the cons were not well explained were invited to put forward draft text that could be inserted in the draft commentary. – It was agreed that the Subcommittee would report on the advancement at the next meeting, in accordance with the mandate for a draft new technical service article to be included in the 2016 update of the Model Convention.	**2. Subcommittee on Services** – The wording of the article and the minority view for the commentary on the new article were discussed in detail and agreed upon by the Committee. Committee members were invited to raise issues not yet discussed with the Subcommittee regarding the wording of the draft commentary. – It was also agreed that a minority approach of addressing the issue of fees for technical services by adding proposed	**2. Subcommittee on Services** – The Committee approved the text of the Model, and commentaries – The dissenting countries agreed to draft the minority opinion.	**2. Subcommittee on Services** – The Committee discussed consequential changes as a result of the addition of a new article on Technical Services. – The Committee agreed that there would not be a complete renumbering of the Model, and the new article on fees for technical services would be included as Article 12 B of the Model.	**2. Subcommittee on Services** Already decided (pursuant to 12th and 13th session decisions): – Include new proposed Article 12 B on Technical Services and introduce new commentary to Article 12 B. – Add Minority view from countries which have issues with the application of Article 12 B, prefer a more limited provision or would prefer inclusion as part of existing Royalties article. – Deal with consequential modifications to Article 23 A (2) and 24 (4), as a result of the introduction

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			wording to Article 12 (Royalties), as an alternative, would be addressed in relevant commentaries. It was further decided that the Subcommittee should draft, for possible inclusion in the commentary, an alternative, originally proposed as a possible compromise solution in the Subcommittee, which avoided reference to specific types of services and instead addressed taxation by a State of all services performed in that State, as well as services performed			of the new Article 12 B, as well as any other consequential changes.

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			outside that State by related parties. In this context, it was noted that the relationship with Article 5 (3) (b) would need to be considered.			
Art.13 Capital gains:						
1. The practical implications of para. 4	**1. The practical implications of para. 4**	**1. The practical implications of para. 4**	**1. The practical implications of para. 4**	**1. The practical implications of para. 4**	**1. The practical implications of para. 4**	**1. The practical implications of para. 4**
	Issue deferred to the 10th Session of the Committee.	Ms. Saksena presented a paper on the practical implications of Article 13 (4) (E/C.18/2014/CRP.13), based on 14 responses to a questionnaire on country practices regarding Article 13 (4) of the Model Convention.	Not included as an agenda item.	Only included as an agenda item in context of BEPS.	Only included as an agenda item in context of BEPS.	Only included as an agenda item in context of BEPS.
2. Base Erosion & Profit Shifting	**2. Base Erosion & Profit Shifting**	**2. Base Erosion & Profit Shifting**	**2. Base Erosion & Profit Shifting**	**2. Base Erosion & Profit Shifting**	**2. Base Erosion & Profit Shifting**	**2. Base Erosion & Profit Shifting**
	BEPS issues not an agenda item.	BEPS issues not an agenda item.	BEPS issues not an agenda item.	Initial discussion of possible changes to Article 13 (paragraphs 4 and 5).	Possible treaty revision of Article 13 (paragraphs 4 and 5 broadly following the OECD's Action Plan recommendations) proposed and	For Decision: Exact wording of Treaty revision of Article 13 (paragraphs 4 and 5 broadly following the OECD's Action Plan

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					discussed. Agreed with some issues of coverage.	recommendations) and commentaries to be settled.

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Summary of expected modifications to the United Nations Model Double Taxation Convention between Developed and Developing Countries and commentaries for the 2017 update: articles 23 and 26 and various changes related to consequential base erosion and profit shifting

Note by the Secretariat

The annexed table contains a summary of issues discussed by the Committee of Experts on International Cooperation in Tax Matters with respect to modifications to articles 23 and 26 and various consequential changes related to consequential base erosion and profit shifting of the United Nations Model Double Taxation Convention between Developed and Developing Countries. The table provides information about the work that has already been done and the work that is to be accomplished by the end of June 2017, when the membership of the Committee will change. The column entitled "Status at 14th Session of the Committee" is therefore intended to guide discussion and decision-making during the fourteenth session of the Committee.

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Topic	*9th Session of the Committee*	*10th Session of the Committee*	*11th Session of the Committee*	*12th Session of the Committee*	*13th Session of the Committee*	*Status at 14th Session of the Committee*
Art. 23 (methods for the elimination of double taxation): **1. Conflicts of qualification and conflicts of interpretation** **2. Subcommittee on Technical Services** **3. Base Erosion & Profit Shifting**	**1. Conflicts of qualification and conflicts of interpretation** The Committee requested Ms. Devillet and Ms. Saksena to work together to develop a paper for consideration at the tenth session of the Committee **2. Subcommittee on Technical Services** Not an agenda item. **3. Base Erosion & Profit Shifting** Not an agenda item.	**1. Conflicts of qualification and conflicts of interpretation** – Mr. Dawson presented a paper on articles 23 A and 23 B of the Model Convention and conflicts of qualification and interpretation (E/C.18/2014/CRP.10), which was prepared by Ms. Devillet pursuant to a request made at the 9th session of the Committee.	**1. Conflicts of qualification and conflicts of interpretation** – Article 23 A (4) minority view was on the agenda (the rest of the Article 23 A (4) aspects of the Model Update having been agreed at the 10th Session) but wording was not agreed. **2. Subcommittee on Technical Services** No consequential changes as a result of the work of the Subcommittee.	**1. Conflicts of qualification and conflicts of interpretation** – The Committee discussed the minority view on the inclusion of paragraph 23 A (4), but did not reach a final decision. Some Members indicated that they no longer sought expression of a minority view as they no longer considered it necessary. **2. Subcommittee on Technical Services** No consequential changes as a result of the work of the Subcommittee.	**1. Conflicts of qualification and conflicts of interpretation** – No detailed discussion of Article 23 (4) minority view. **2. Subcommittee on Technical Services** Some consequential changes as a result of the work of the Subcommittee. **3. Base Erosion & Profit Shifting** – Possible treaty revision was considered following the OECD's wording of article 23 (saving clause).	**1. Conflicts of qualification and conflicts of interpretation** – Already agreed: Incorporation into the commentary to article 23 of the United Nations Model Convention paragraphs 32.1 to 32.7 of the commentary on articles 23 A and 23 B of the OECD Model Convention and proposed additional comments to reflect the differences between the provisions of the two Model Conventions.

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		– the Committee agreed to incorporate into the commentary on article 23 of the United Nations Model Convention paragraphs 32.1 to 32.7 of the commentary on articles 23 A and 23 B of the OECD Model Convention and proposed additional comments to reflect the differences between the provisions of the two Model Conventions – The Committee agreed to include the proposed new paragraph 4 in article 23 A of the United Nations Model Convention, giving the State of residence the right not to exempt an item of income or of	**3. Base Erosion & Profit Shifting** No consequential changes as a result of the work of the Subcommittee.	**3. Base Erosion & Profit Shifting** No consequential changes as a result of the work of the Subcommittee.	Agreed in principle to include such a provision.	– Already agreed: Include the proposed new paragraph 4 (of the OECD Model) in Article 23 A of the United Nations Model Convention. – For decision: Request the dissenting Members, if any, to draft the minority view manifesting their disagreement with the inclusion of paragraph 4 in Article 23A of the Model, and decide on the final wording. **2. Subcommittee on Technical Services** – Deal with consequential modifications to Article 23 A (2), as a result of the introduction of the new Article 12 B.

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		capital where a divergence of interpretation of the treaty between the contracting States could lead to double non-taxation or to the imposition of low taxes on dividends, interest and royalties because of paragraph 2 of articles 10, 11 or 12. – The Committee agreed to reflect in the commentary a minority view stating that some Committee members did not agree with the inclusion of the new paragraph 4. **2. Subcommittee on Technical Services** No consequential changes as a result of the work of the Subcommittee.				**3. Base Erosion and Profit Shifting** – For decision: wording and placement of saving clause.

Topic	9th Session of the Committee	10th Session of the Committee	11th Session of the Committee	12th Session of the Committee	13th Session of the Committee	Status at 14th Session of the Committee
		3. Base Erosion & Profit Shifting Not an agenda item.				
Art. 26 exchange of information	– The members of the Committee expressed support for further work on the issues raised during the presentations, and a subcommittee was set up to address those issues. – The subcommittee would be coordinated by Mr. Lara Yaffar and was mandated to: (a) monitor international developments in the area of the exchange of information (including OECD developments) and report to the 10th session with	The Committee agreed to the changes to the Model and commentary proposed by the Subcommittee on Exchange of information. As per paper (E/C.18/2014/CRP.4). – The changes mainly comprised: • Amendment of the text of article 26 (2) to expressly provide for the possibility of information sharing by tax authorities with other law enforcement agencies and judicial authorities under certain conditions.	The Committee agreed in principle that the Code should take the form of a Council resolution, with a draft to be included in the report of the Committee, in the section on action required by the Economic and Social Council The language of the text should be revised to produce a text that is not made to appear legally binding for countries, given that this would unnecessarily hinder the wide support for such a document. The Committee recommended that the	The Committee agreed to the proposed Code of Conduct as to content, with the form to be governed by ECOSOC requirements. Committee agreed that Member States may voluntarily express their commitment to the UN Code of Conduct, by expression of consent to the UN secretariat. The expression of consent is a completely voluntary action and does not create a binding obligation for the consenting Member State.	Not an agenda item.	Already agreed: Changes to Model and commentary as agreed at 10th session and Code as agreed at 12th session (in the form to appear in Report of 12th and 13th sessions.

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	recommendations on any further work; and (b) provide any further input required to amend article 26 and the commentary thereon for the next update of the United Nations Model Con\ention.	• Expansion of the commentary to clarify the interpretation of the standard of "foreseeable relevance" and to explicitly refer to the term "fishing expeditions" as an element within the determination of foreseeable relevance. • Clarifications in the commentary relating to the identification of the person believed to be in possession of requested information. E/2014/45 E/C.18/2014/6 14-66993 17/29 • Inclusion of optional language in the commentary for contracting States wishing	subcommittee redraft the text for the next meeting of the Committee.			

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		to improve the speed and timeliness of exchange of information under article 26. – The subcommittee on exchange of information introduced a paper on a proposed revised United Nations Code of Conduct on Cooperation in Combating International Tax Evasion (E/C.18/2014/CRP.5). – The Subcommittee on Exchange of Information considered it a good opportunity to update the Code in order to take on board those developments and to make a statement in support of automatic				

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		exchange of information. – The Committee agreed to discuss it at the 11th Session of the Committee.				
BEPS Subcommittee (several Articles)					– Other issues open for consideration by the Subcommittee are: – Amendment of preamble and title of the Convention; – Article 4 (3) – Text in consideration of the Limitation on Benefits (LOB) clause and/or the Principled Purpose Test (PPT): Agreed in principle to include 4 options: – A PPT alone – An LOB with a PPT – An LOB with a narrower	– This is an agenda item at the upcoming Session of the Committee. Topic is open for discussion by the Committee, although some items have been agreed in principle.

Paper	16th Session of the Committee	18th Session of the Committee	19th Session of the Committee	12th Session of the Committee	13th Session of the Committee	Status at 14th Session of the Committee
					conduits provision; and – **An LOB alone for countries with domestic law addressing conduits.** – **Article 10(2);** – **The Title and the Preamble of the Model;** – Changes were agreed to reflect the purpose of combatting tax abuse. – Article XX (new Anti-abuse article); – Ordering and numbering of provisions. – Commentaries relating to these Articles	